



# Agenda Item # 6

## BOA-003164-2024

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

4519 Cypress Business Park

**Applicant / Agent:**

Kimberly Rea

**Property Owner:**

BB Properties, LLC

**Current Zoning:**

B-5, Office Distribution District

**Future Land Use:**

Heavy Industry

**Case Number(s):**

6643/6468

**Unified Development Code (UDC) Requirement:**

- The Unified Development Code (UDC) does not allow the operation of a daycare in a B-5, Office-Distribution District.

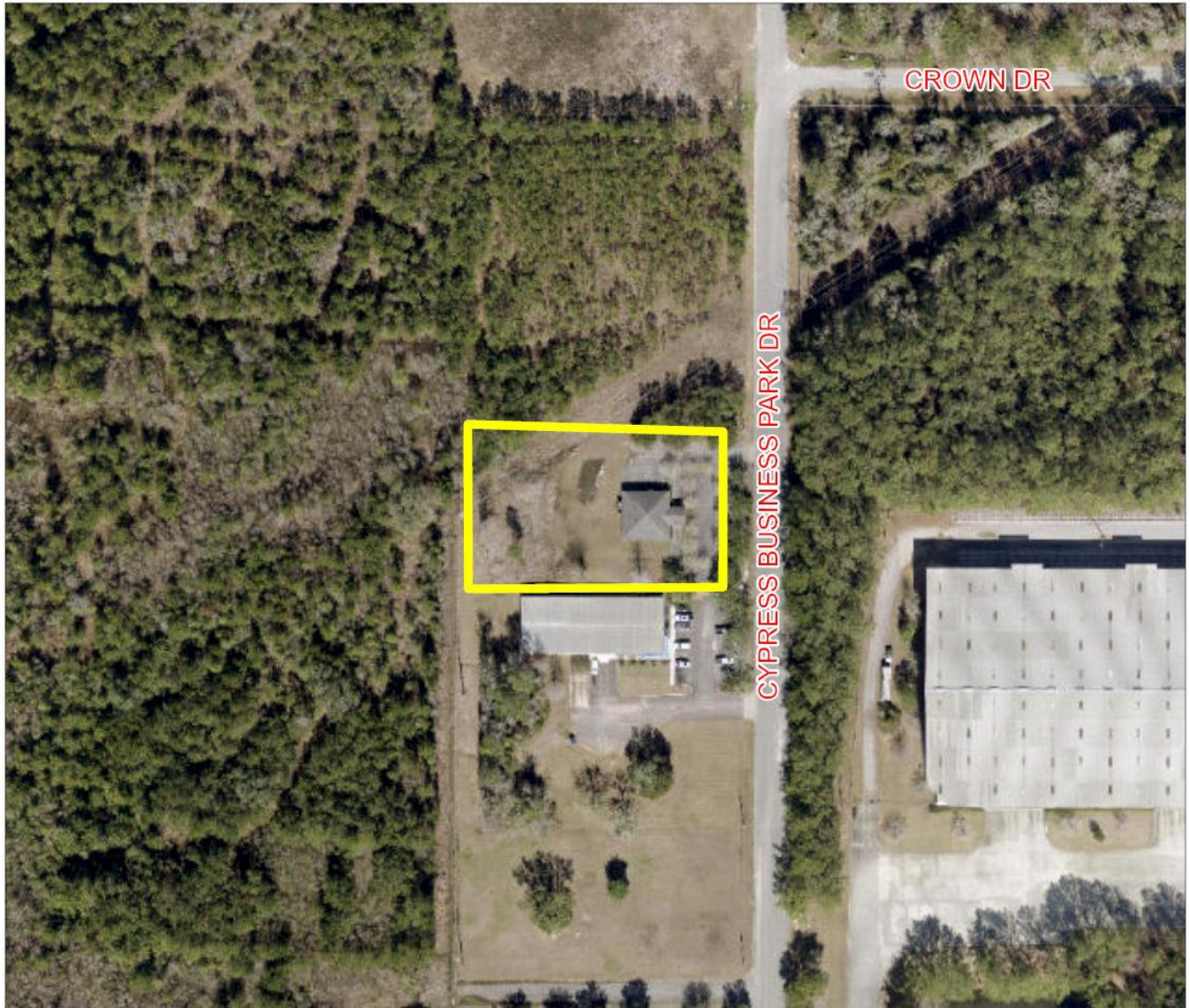
**Board Consideration:**

- Use Variance to amend a previously approved Use Variance to allow operation of a daycare in a B-5, Office-Distribution District.


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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by industrial units.

APPLICATION NUMBER	6643	DATE	January 6, 2025	
APPLICANT	Kimmy Care, LLC			
REQUEST	Use Variance			

## SITE HISTORY

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The site was annexed into the City of Mobile in 1993.

In August 1996, the site was rezoned from R-1, Single-Family Residential District to B-5, Office Distribution District.

In August 1999, the site was part of the Creekline Subdivision, Tenth Addition, which was approved by the Planning Commission and recorded in Probate Court.

The site was granted a Use Variance by the Board of Zoning Adjustment on July 11, 2022 to allow a daycare to operate in a B-5 District.

## STAFF COMMENTS

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### Engineering Comments:

No comments to the proposed variance; however; according to the submitted plans, the proposed project will require a Land Disturbance Permit. The applicant will need to have the following conditions met:

1. The proposed site improvements will require a Land Disturbance Permit be submitted through the CSS Portal.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules for Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

### Traffic Engineering Comments:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Article 3, Section 64-3-12 of the City's Unified Development Code.

### Urban Forestry Comments:

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

### Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial

buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

### **Planning Comments:**

The applicant is requesting a Use Variance to amend a previously approved Use Variance to allow operation of a daycare in a B-5, Office-Distribution District; the Unified Development Code (UDC) does not allow the operation of a daycare in a B-5, Office-Distribution District.

As mentioned previously, the site was granted a Use Variance in July 2022, and the applicant is now proposing to build a new 1,500 square foot structure. There have been no 311 complaints made since the daycare began operation in 2023.

The site is adjacent to other B-5 properties to the North, South, and West, with I-1, Light Industry District, across the street to the East. No Use Variances have been granted for any other properties in the area.

The proposed new building will result in the removal of five (5) parking spaces, with the applicant proposing one (1) new space. It should be noted that the UDC has two (2) different parking ratios for daycares. The first states that parking should be provided at a ratio of one (1) parking space per 350 square feet, and the second states that parking should be provided at a ratio of two (2) parking spaces per teaching station or classroom; whichever is greater. As such, staff is proposing an amendment to eliminate the conflict by removing the ratio of one (1) parking space per 350 square feet. As the information submitted does not depict the number of classrooms, nor provide the number of teaching stations, it is difficult for staff to determine if the site will have compliant parking. As such, if approved, the site plan should be revised to illustrate a compliant number of parking spaces.

As the proposed addition to the site is more than 50% increase in the building footprint on the site, the property will have to come into compliance with the UDC tree planting and landscape area requirements.

A note on the site plan states that the site will use curb side pickup, in lieu of a dumpster. If approved, this note should be retained on the site plan.

## **VARIANCE CONSIDERATIONS**

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### **Standards of Review:**

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and

- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

### **Considerations:**

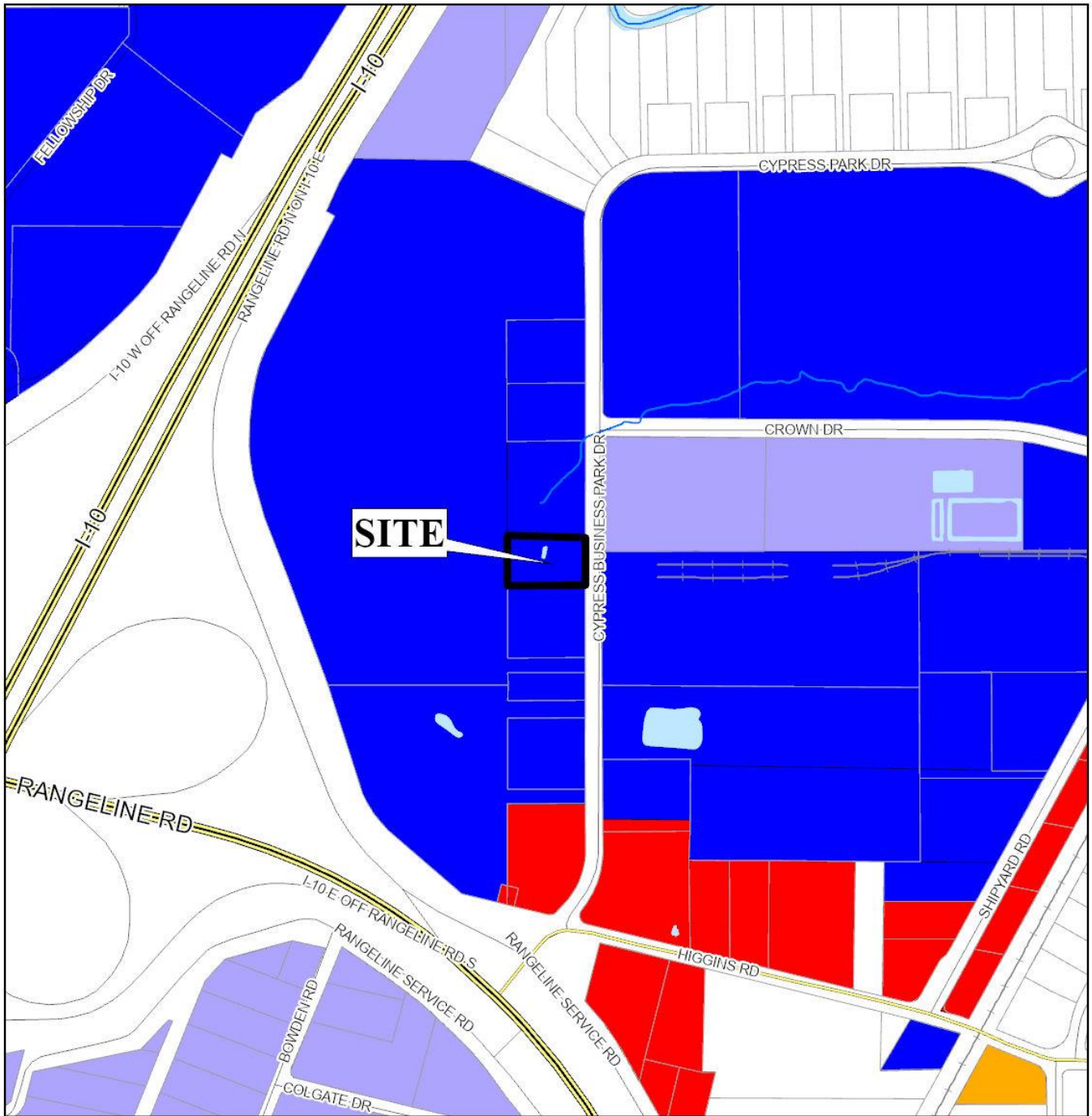
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- A) The variance **will not** be contrary to the public interest;
- B) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- C) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If approved, the following conditions should apply:

- 1) Revision of the site plan to depict parking compliance at a ratio of two (2) parking spaces per teaching station or classroom, whichever is greater;
- 2) Full compliance with tree planting and landscape area requirements of the UDC;
- 3) Retention of the note on the site plan stating that curbside pickup will be used;
- 4) Submittal of a revised site plan to Planning & Zoning staff; and
- 5) Full compliance with all municipal codes and ordinances.

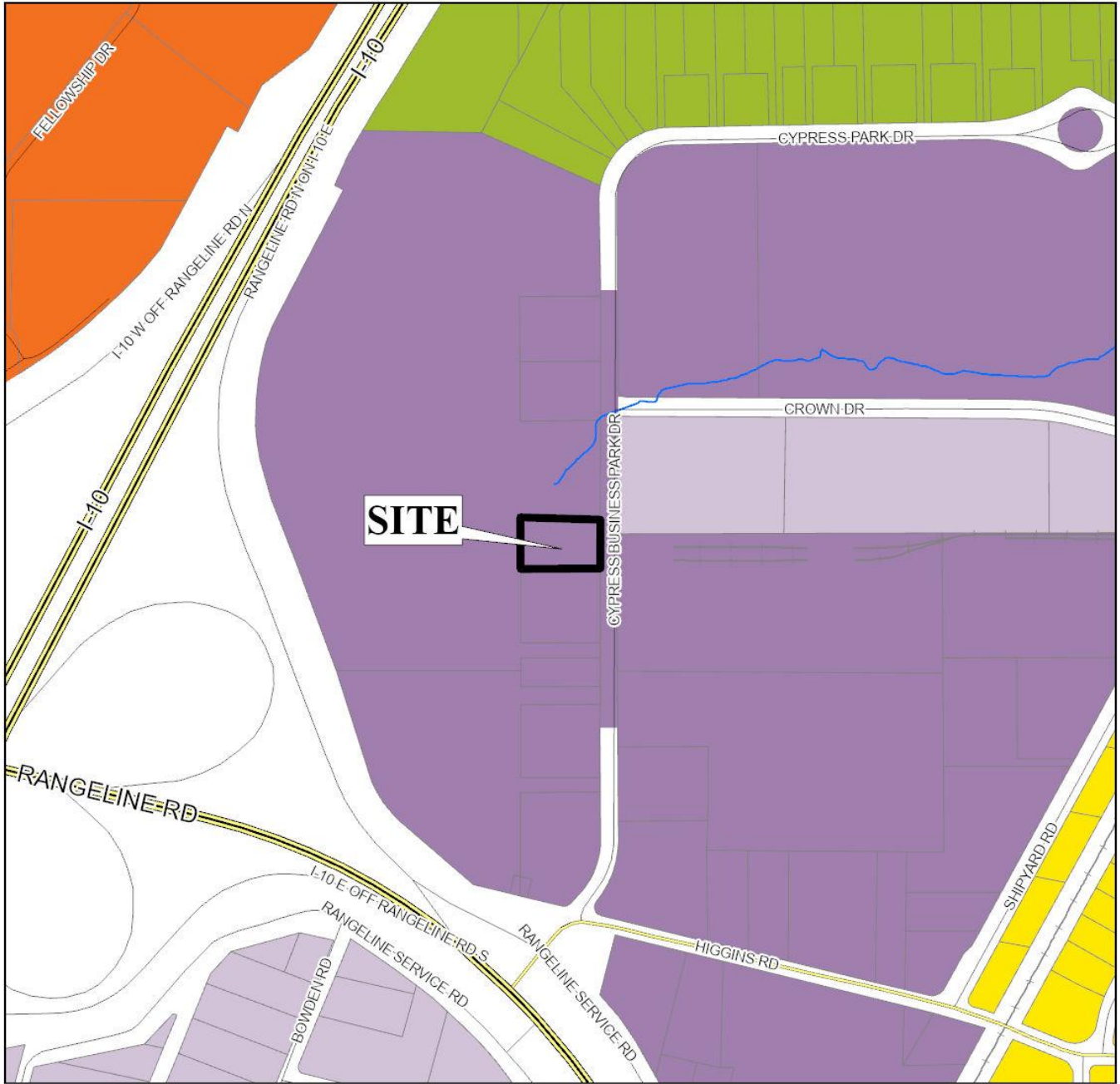
# LOCATOR ZONING MAP



APPLICATION NUMBER _____	DATE	January 6, 2025
APPLICANT _____	Kimmy Care, LLC	
REQUEST _____	Use Variance	



# FLUM LOCATOR MAP



APPLICATION NUMBER 6643 DATE January 6, 2025

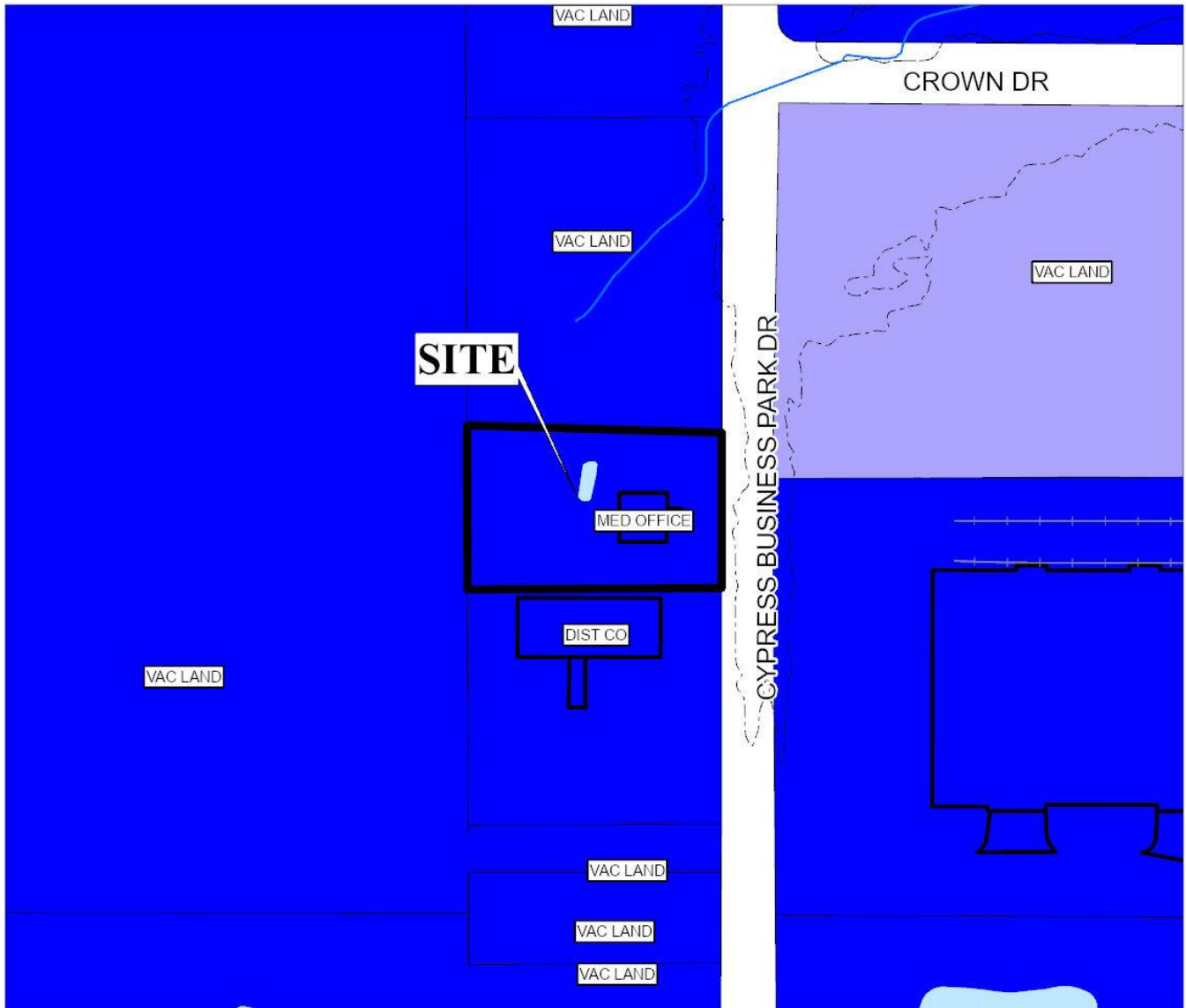
APPLICANT Kimmy Care, LLC

REQUEST Use Variance

- |   |  |   |  |
|---|--|---|--|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: brown;">■</span> Neighborhood Center - Traditional | <span style="color: orange;">■</span> Downtown Waterfront | <span style="color: lightgreen;">■</span> Parks & Open Space |
| <span style="color: yellow;">■</span> Mixed Density Residential | <span style="color: blue;">■</span> Neighborhood Center - Suburban     | <span style="color: lightpurple;">■</span> Light Industry | <span style="color: darkblue;">■</span> Water Dependent      |
| <span style="color: pink;">■</span> Downtown                    | <span style="color: pink;">■</span> Traditional Corridor               | <span style="color: purple;">■</span> Heavy Industry      |  |
| <span style="color: red;">■</span> District Center              | <span style="color: orange;">■</span> Mixed Commercial Corridor        | <span style="color: cyan;">■</span> Institutional         |  |



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

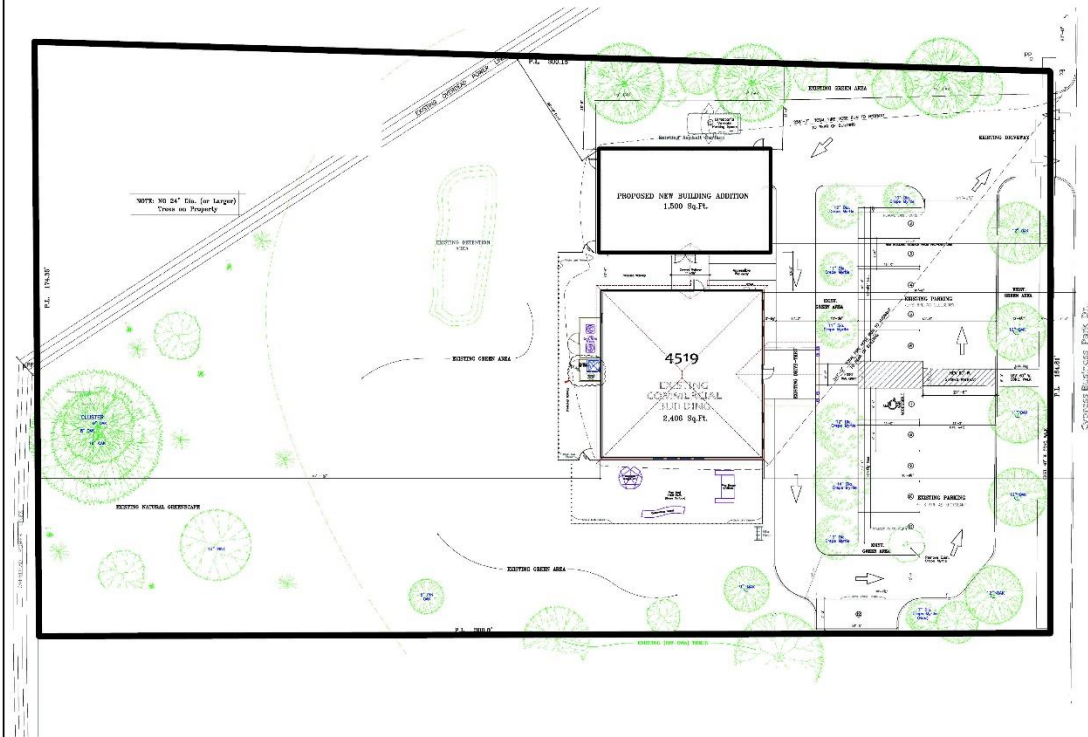


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# SITE PLAN



The site plan illustrates the existing building, proposed building, parking, and landscaping.

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APPLICANT	Kimmy Care, LLC			
REQUEST	Use Variance			

ZONING DISTRICT CORRESPONDENCE MATRIX		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A														
ONE-FAMILY RESIDENCE	R-1	■				■		■					□		
TWO-FAMILY RESIDENCE	R-2	■				■		■					□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■						□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■					□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■					□		
HISTORIC BUSINESS	H-B			■		■		■					□		
VILLAGE CENTER	TCD					■	■						□		
NEIGH. CENTER	TCD					■	■						□		
NEIGH. GENERAL	TCD					■							□		
DOWNTOWN DEV. DDD	T-6			■									□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□					□		
DOWNTOWN DEV. DDD	T-5.2			■		■							□		
DOWNTOWN DEV. DDD	T-4			■		■		□					□		
DOWNTOWN DEV. DDD	T-3			■		■							□		
DOWNTOWN DEV. DDD	SD-WH									○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○		○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■				□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■				□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■				□	○	
COMMUNITY BUSINESS	B-3				■				■			○	□	○	
GEN. BUSINESS	B-4			■					■			○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■			□	□	
LIGHT INDUSTRY	I-1									■			□	□	□
HEAVY INDUSTRY	I-2										■		□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

## HEAVY INDUSTRY (HI)

This designation applies to larger parcels primarily devoted to high-impact industrial activity which is preferably removed from residential and commercial uses. Light industry, industrial business or heavy commercial lands may separate heavy industry from other land uses.

Heavy industrial areas include collection, treatment, and manufacturing processes which use raw materials, are distinguished by the presence of noise, vibration, and/or odors, and benefit from easy access to a multimodal freight transportation network. Certain types of heavy industry are characterized by low building coverage and activities that rely on large areas of outdoor storage of raw material stockpiles and/or waste-product disposal areas, storage tanks, pipelines, and transportation yards to handle the transfer of heavy materials. The outdoor storage

areas should be screened as much as possible by the nature of the stored materials.

Land designated as HI may be underdeveloped due to the presence of wetlands on portions of the parcel. In these cases, the wetlands may serve to buffer surrounding uses from the potential impacts of the heavy industrial use. Undeveloped areas of HI parcels that have tree cover may be used as buffering between the heavy industrial use and other uses. Where buffers do not exist naturally, they should be provided as spelled out in the zoning and subdivision regulations. Open areas reserved for dredge disposal are also designated as HI and may contain wetlands.

In Mobile, port terminal facilities, docks, shipyards, drydocks, etc., are mostly owned by the State of Alabama. Although not subject to local zoning, these facilities are shown as heavy industrial uses in the FLUM.